

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:13-cv-48-RJC**

ROBERT J. PARSON, III,)	
)	
Plaintiff,)	
)	
v.)	
)	
DWAYNE TERRERLL,)	
Superintendent, Marion)	<u>ORDER</u>
Corr. Inst.; L. HAYWORD,)	
Nurse, Marion Corr. Inst.;)	
FNU CARSWELL, Mental)	
Health, Marion Corr. Inst.,)	
)	
Defendants.)	
)	

THIS MATTER is before the Court on Plaintiff's motion to amend his complaint and his motion for the issuance of subpoena.¹

On March 25, 2013, the Court entered an Order dismissing Plaintiff's complaint which was filed pursuant to 42 U.S.C. § 1983. (Doc. No. 6).² In his motion to amend, Plaintiff provides citations to case law which he contends support a finding that he has stated a claim upon which relief may be granted.

A district court is not permitted to deny a Rule 15 motion to amend "simply because it has entered judgment against the plaintiff—be it a judgment of dismissal, summary judgment, or a judgment after a trial on the merits." Laber v. Harvey, 438 F.3d 404, 427 (4th Cir. 2006) (en

¹ The Court accepted the allegations of Plaintiff's complaint as true and the information requested by Plaintiff through subpoena largely mirrors his allegations. The Court finds that the motion for subpoena should therefore be denied as moot.

² The findings and conclusions of law are fully incorporated herein.

banc). Rule 15(a)(2) provides that leave to amend a complaint should be freely granted when justice so requires. Fed. R. Civ. P. 15(a)(2). A motion to amend filed following entry of judgment is “evaluated under the same legal standard as a similar motion filed before judgment was entered—for prejudice, bad faith, or futility.” Laber, supra.

The Court finds that Plaintiff’s motion to amend should be denied because it is futile in the Court’s estimation as Plaintiff’s legal citations do not alter the Court’s conclusion that Plaintiff’s complaint has failed to state a claim under 28 U.S.C. § 1915A(b)(1).

IT IS, THEREFORE, ORDERED that:

1. Plaintiff’s Motion to Amend his Complaint is **DENIED** as futile. (Doc. No. 8).
2. Plaintiff’s Motion for Issuance of Subpoena is **DENIED** as moot. (Doc. No. 9).

Signed: April 29, 2013



Robert J. Conrad, Jr.
Chief United States District Judge
